

Case No.  
Gwin, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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ALLEN F. CAMPBELL,	:	CASE NO. 1:20-cv-00473
	:	
Plaintiff,	:	
	:	
vs.	:	OPINION & ORDER
	:	[Related Doc. 1, 61, 72]
	:	
EGIDIJUS MARCINKEVICIUS,	:	
	:	
	:	
Defendant.	:	
	:	

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JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

In this case involving disputes over the allocation of trust assets, Plaintiff Campbell alleges that Defendant Marcinkevicius has breached his duties as trustee of Plaintiff's mother's trust estate. Plaintiff sues as a beneficiary of that trust.

On October 20, 2022, Defendant moved to dismiss Plaintiff's suit, arguing in part that Plaintiff fails to state a claim for breach of fiduciary duty. On December 2, 2022, Plaintiff filed his opposition to Defendant's motion.

The Court finds that it needs the relevant trust documents to rule on Defendant's motion to dismiss. The Court therefore requests that the parties jointly file within the next 7 days a copy of the Margaret F. Campbell trust document for the Court's consideration.

**I. Discussion**

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“In evaluating whether the plaintiff has stated a cognizable claim, the court generally may not consider matters outside of the pleadings.”<sup>1</sup> “A court may, however, consider certain materials—documents attached to the complaint, documents incorporated by reference in the complaint, or matters of judicial notice—without converting [a] motion to dismiss into a motion for summary judgment.”<sup>2</sup> Even when a plaintiff does not refer directly to a document in his pleadings, that document may be incorporated by reference when a plaintiff references his rights under that document and the document is central to the plaintiff’s claims.<sup>3</sup>

Plaintiff Campbell’s Complaint alleges that Defendant Marcinkevicius has breached his fiduciary duty as trustee of the Margaret F. Campbell Trust. Thus, the scope of Defendant’s duties—as laid out in the Trust document—is central to Campbell’s claim. The Court deems the trust document incorporated by reference into Plaintiff’s Complaint and requests that the parties jointly submit a full copy of the Margaret F. Campbell Trust document within the next 7 days.

IT IS SO ORDERED.

Dated: December 8, 2022

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> *Composite Techs., L.L.C. v. Inoplast Composites SA DE CV*, 925 F. Supp. 2d 868, 873 (S.D. Ohio 2013).

<sup>2</sup> *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003).

<sup>3</sup> *Weiner v. Klais & Co.*, 108 F.3d 86, 89 (6th Cir. 1997).